

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,	:	
	:	
PLAINTIFF,	:	
	:	
v.	:	CIVIL ACTION NO. 2:05CV1067-C
	:	
ONE PARCEL OF PROPERTY	:	
LOCATED AT 1554 SHADY TRAIL	:	
WETUMPKA, ELMORE COUNTY,	:	
ALABAMA, WITH ALL	:	
APPURTENANCES AND	:	
IMPROVEMENTS THEREON,	:	
	:	
DEFENDANT.	:	

MOTION TO STRIKE CLAIM AND ANSWER OF BILLY WAYNE JARRETT, JR.

Comes now United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and John T. Harmon, Assistant United States Attorney, and respectfully states as follows:

I. BACKGROUND

The United States filed this action on November 3, 2005, and properly recorded a Lis Pendens, pursuant thereto, on November 4, 2005. The title opinion for the Defendant property found title to be vested in Billy W. Jarrett and JoAnn Jarrett. The title opinion does not show Billy Wayne Jarrett, Jr. (hereinafter, "Jarrett, Jr.") as having an interest in the Defendant property.

On March 27, 2006, Jarrett, Jr. filed his Claim and Answer, asserting that he simply rents the property from his parents, Billy Wayne Jarrett, Sr. and Joann Jarrett.

Jarrett, Jr. states in his Claim and Answer that he is not claiming any ownership interest in the Defendant property.

II. CASE AND STATUTE CITATIONS

Those who are not owners lack standing to contest the forfeiture. See U.S. v. Carrell, 252 F.3d 1193, 1196 n.2 (11th Cir. 2001). The government need not show even probable cause unless the claimant makes a valid claim that he has a legally cognizable interest in the property that will be injured upon forfeiture. See U.S. v. \$38,000 in United States Currency, 816 F.2d 1538, 1543, n.12 (11th Cir. 1987).

Standing is a threshold issue. A claimant must have a "facially colorable interest" in the property to satisfy the case-or-controversy requirement. U.S. v. \$9,041,598.68 in U.S. Currency, 163 F.3d 238 (5th Cir. 1998).

III. CONCLUSION

Jarrett, Jr. does not assert any legally cognizable interest in the property. As such is the case, he lacks standing to contest this forfeiture. The United States moves to strike the claim of Billy Wayne Jarrett, Jr.

Respectfully submitted this 17th day of November, 2006.

FOR THE UNITED STATES ATTORNEY
LEURA G. CANARY

/s/John T. Harmon
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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2006, I electronically filed the foregoing Motion to Strike Claim and Answer of Billy Wayne Jarrett, Jr. with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Richard K. Keith** and **Timothy McCollum**.

/s/John T. Harmon
John T. Harmon
Assistant United States Attorney